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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Reclassification of License of) RM-11100
Station KMMY(FM), Muskogee, Oklahoma)
)

ORDER TO SHOW CAUSE**Adopted: October 20, 2004****Released: October 25, 2004**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a petition for rulemaking filed by Charles Crawford ("Petitioner"), seeking to amend the FM Table of Allotments by allotting Channel 247A at Fort Towson, Oklahoma as that community's first local aural transmission service. To accommodate this allotment, Petitioner also requests the reclassification of Station KMMY(FM), Channel 246C, Muskogee, Oklahoma, to specify operation on Channel 246C0 because it is operating at below minimum Class C facilities. Petitioner has also certified, as required, that no other Class A channels are available for allotment at Fort Towson.¹

2. Station KMMY(FM) currently operates on Channel 246C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 380 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of greater than 450 meters HAAT with 100 kW ERP. The staff has tentatively concluded that if Station KMMY(FM) operates as a Class C0 facility, any short-spacing between Station KMMY(FM) and the proposed use of Channel 247A at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to KMMY Inc., licensee of Station KMMY(FM), Muskogee, Oklahoma, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to KMMY, Inc., to show cause why Station KMMY(FM)'s license should not be modified to specify operation on Channel 246C0 in lieu of Channel 246C at Muskogee. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This

¹ See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

procedure is now set forth in Section 1.87 of the Commission's Rules.² In this instance, the reclassification of Station KMMY(FM) as a Class C0 station at Muskogee, Oklahoma, will accommodate the allotment of Channel 247A, Fort Towson, Oklahoma, as proposed by Petitioner. We consider this reallocation proposed by Petitioner to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The Station KMMY(FM) license at Muskogee, Oklahoma, can be modified to allow the reclassification of Channel 246C to Channel 246C0 at its currently authorized transmitter site.³

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, KMMY, Inc. licensee of Station KMMY(FM), Muskogee, Oklahoma, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 246C0, Muskogee, Oklahoma.

6. Pursuant to Section 1.87 of the Commission's Rules, KMMY, Inc. may, no later than, December 9, 2004, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final Order will be issued if the modification is found to be in the public interest. If KMMY, Inc. chooses to seek authority to modify Station KMMY(FM)'s facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (December 9, 2004).

7. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

KMMY, Inc.
Stephens Family Limited Partnership
P.O.Box 1250
Sapulpa, Oklahoma 74067

8. For further information on this proceeding, contact Victoria M. McCauley, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

² See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

³ The reference coordinates for Channel 246C0 at Muskogee are NL 35-15-35 and WL 95-25-52.